

2011 DRAFTING REQUEST

Assembly Amendment (AA-AB547)

Received: **02/20/2012**

Received By: **mgallagh**

Wanted: **As time permits**

Companion to LRB:

For: **Roger Rivard (608) 266-2519**

By/Representing: **DJ**

May Contact:

Drafter: **mgallagh**

Subject: **Occupational Reg. - misc**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Rivard@legis.wi.gov**

Carbon copy (CC:) to: **michael.gallagher@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Add definition for "funeral director in charge of the funeral establishment"

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mgallagh 02/20/2012	kfollett 02/20/2012		_____			
/1			rschluet 02/20/2012	_____	mbarman 02/20/2012	mbarman 02/20/2012	

FE Sent For:

<END>

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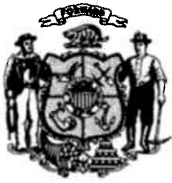
See attached

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/?	mgallagh	1/15 2/20		_____ _____			

FE Sent For:

<END>



In 2/20 By 9a.m. Tues 2/21 Thanks

State of Wisconsin
2011 - 2012 LEGISLATURE



LRBa2394

MPG: kgf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO 2011 ASSEMBLY BILL 547

1 At the locations indicated, amend the bill as follows:

2 1. Page 78, line 22: after that line insert:

3 "SECTION 228m. ⁴⁵454.105 (2s) of the statutes is created to read:

4 ⁴⁵454.105 (2s) The funeral director in charge of the funeral establishment under
5 sub. (2m) shall have full charge, control, and supervision of all funeral directing and
6 embalming services at the funeral establishment, and that funeral director shall
7 ensure that the funeral establishment operates in compliance with this chapter and
8 rules promulgated by the examining board."

9 (END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa2394/0dn

MPG:...

Date

Representative Rivard

Please review this draft amendment carefully to ensure that it is consistent with your intent.

Please note that, for the reasons discussed below, rather than creating a definition of "funeral director in charge of the funeral establishment," the amendment creates s. 454.105 (2s), which contains substantive requirements for a funeral director in charge of the funeral establishment.

According to LRB drafting conventions, substantive requirements should not be placed in definitions. The language in the drafting instructions appears to require (1) that a funeral director who is in charge of a funeral establishment under s. 454.105 (2m) must have full charge, control, and supervision of the funeral directing and embalming services in the funeral establishment and (2) that such a funeral director is responsible for ensuring that the operation of the funeral establishment satisfies applicable legal requirements. If that non²definitional language were placed in a definition, the requirements of the law would be unclear. Therefore, the amendment includes that language under new s. 454.105 (2s). Please let me know if that is inconsistent with your intent or if you have any questions.

Thank you.

Michael P. Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

Memo

To: LRB
From: Deej Lundgren
Date: February 20, 2012
Re: Amendment to AB 547

Question

Do you think it best to role all of these amendments into one, do separate ones or do a sub amendment?

Amendments

1. Uniform Dwelling Council (already drafted but slight change – 11a23651)
 - a. Change the definition of a possible UDC member that works on modular or manufactured homes from: “Manufacturers or installers of manufactured one and two family housing” to “Manufacturers or sellers of modular homes or installers of modular or manufactured homes.”
 - b. Change the section concerning architect/engineers to: “Architects, or engineers, or designers who are registered under ch. 443 and who are actively engaged in the design or evaluation of one- and two-family housing.”
 - i. Page 12, line 5: delete designers
 - ii. Page 12, line 5: after “engineers” insert “who are registered under ch. 443 and who are”.
 - c. Include “fire prevention professional” to the list of possible members to the UDC (with no further definition).
 - d. Increase the size of the UDC to 11 members instead of the current 7 members proposed in AB 547.
 - i. Page 11, line 19: delete “7” and substitute “11”.

- ii. Page 12, line 15: delete "Five" and substitute "Seven".
 - e. Page 12, line 14: delete "nonvoting secretary" and substitute "nonvoting secretary, but shall not be a member,".
2. Technical Amendments (believe these to be already drafted)
- a. 11a23601
 - i. The attached LRB 3228/P1 (PDF attached) appears to have been inadvertently left out of the final bill. It is included in the LRB summary, but the actual language is missing from the bill. We need it inserted.
 - b. 11a23591
 - i. Some language in Section 70 needs to be tuned up to reflect our actual intent. We need to strike from the bill the language that I have highlighted below in red. What we are trying to do is to remove the requirement that a local unit has to send DSPS every sanitary permit they issue.
The governmental unit responsible for the regulation of private sewage on-site wastewater treatment systems shall forward a copy of each valid sanitary permit and \$20, or the amount determined under department rule, of the fee to the department within 90 days after the each valid permit is issued a copy of the permit and a portion of the fee, as determined under department rule. The governmental unit shall also compile a periodic summary of the permits that it has issued. The summary shall contain the information required by the department by rule, and shall be submitted by the governmental unit to the department at intervals to be determined by the department by rule.
 - c. 11a23641
 - i. In Section 30 of the bill, I am told the language goes a little farther than we intended and may actually exempt farm buildings from more codes than just the Commercial Building Code, as was our intent. We believe the attached Word document would address the issue.
3. Cemetery Board (already in drafting I believe)
- a. Thanks again for taking the time to talk to me this morning in regards to AB 547. To follow-up on our discussion, you are right, we **do not** want to delete Section 164 of the bill (as I stated in my memo), but rather we would like to delete 440.91 (8) from state statute:

- **440.91 (8) Sections 452.13, 452.14, 452.15, 452.18, 452.21 and 452.22, as they apply to real estate brokers or salespersons, apply with equal effect to cemetery authorities and salespersons.**

As we discussed, the above-referenced section was written prior to the creation of the Cemetery Board. It is representative of statutes that remained after the regulation of cemeteries was transferred from the Real Estate Examining Board to Direct Licensing at the Department of Regulation and Licensing in 1991 and subsequently to the Cemetery Board in 2005. In short, the section is outdated and unnecessary. More importantly, I have not aware of anyone who would oppose this change -- including DSPS -- and I don't believe that will change going forward.

4. Marriage and Family Therapy, Professional Counseling, and Society Work Examining Board (already drafted)
 - a. 11a23611
 - b. Page 80, line 5: delete that line.
5. Cemetery Salesperson
 - a. 11a23861
 - i. Page 54, line 20: delete lines 20-23 and substitute: "SECTION 164m. 440.91 (8) of the statutes is repealed."
6. Dietitians Affiliated Credentialing Board
 - a. Already submitted for drafting -- not sure of amendment number
 - b. Basically changes "certified" to "licensed" in the statutes. Please see separate document regarding this amendment. Also, please do not include the word nutritionist except when referring to the Academy of Nutrition and Dietetics. Please call Jeff Schoenfeldt at 608.609.1447 with any questions.
7. Allowing Pharmacists to engage in collaborative practice agreements.
 - a. Not in drafting
 - b. We had submitted language to allow for pharmacies to engage in collaborative practice agreements; the language is below and really is only a technical change because a physician can already delegate authority on the medical practice act but a similar provision doesn't exist in the pharmacy practice act to allow for a pharmacist>

Can we get this language included, the Governor had included a version of this in his budget last year:

Statutory Language Proposed by PSW

Modify this section:

450.01 (16) (h) Making therapeutic alternate drug selections, initiating or modifying a drug therapy through a protocol established with a practitioner or,

450.01 (16) (i) If made in accordance with written guidelines or procedures previously established by a pharmacy and therapeutics committee of a hospital, skilled nursing facility, or intermediate care facility for persons with mental retardation, as defined in s. 46.278 (1m) (am) and approved by: ~~the hospital's medical staff and use of the therapeutic alternate drug selection has been approved for a patient during the period of the patient's stay within the hospital by any of the following:~~

1. The patient's physician
2. The patient's advance practice nurse prescriber, if the advanced practice nurse prescriber has entered into a written agreement to collaborate with a physician.

Delete this section:

~~450.02 (4) (b) Interprets s. 448.03 (2) (e) to expand the therapeutic alternate drug selection powers of a pharmacist beyond those specified in s. 450.01 (16) (h).~~

8. Funeral Directors

- a. Not in drafting
- b. You have asked us to prepare a definition for Wisconsin's funeral licensing law of a "funeral director in charge of the funeral establishment" as that term is used in Section 445.105(2m)(b) of the Wisconsin Statutes. As you know, we previously sent to you a memorandum dated August 30, 2011 which quoted definitions of funeral home managers or funeral directors in charge of a funeral home from 17 different states.

In examining the definitions provided in the 17 other states, we devised the definition of a "funeral director in charge of the funeral establishment" for Section 445.01(6) of the Wisconsin Statutes by taking terminology from the licensing statute of a number of states. We wanted to combine the two concepts of a funeral director who would be responsible for the actual operation of the funeral home and also responsible to the Board for compliance with laws and regulations. Applying those two concepts, we came up with the following definition:

"(6) 'Funeral director in charge of the funeral establishment' means a licensed funeral director who has full charge, control and supervision of all funeral directing and embalming operations at the funeral establishment and who accepts responsibility for the operation of the funeral establishment in compliance with all of the laws and regulations relating thereto."

9. Elevator Industry Work Preservation Fund

- a. Not in drafting
- b. Please see separate document.

10. WI Propane Education and Research Council

- a. Not in drafting but I believe Van Roy's office has discussed this with you.
- b. Please see separate document.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa2394/1dn
MPG:kjf:rs

February 20, 2012

Representative Rivard

Please review this draft amendment carefully to ensure that it is consistent with your intent.

Please note that, for the reasons discussed below, rather than creating a definition of "funeral director in charge of the funeral establishment," the amendment creates s. 445.105 (2s), which contains substantive requirements for a funeral director in charge of the funeral establishment.

According to LRB drafting conventions, substantive requirements should not be placed in definitions. The language in the drafting instructions appears to require 1) that a funeral director who is in charge of a funeral establishment under s. 445.105 (2m) must have full charge, control, and supervision of the funeral directing and embalming services in the funeral establishment and 2) that such a funeral director is responsible for ensuring that the operation of the funeral establishment satisfies applicable legal requirements. If that nondefinitional language were placed in a definition, the requirements of the law would be unclear. Therefore, the amendment includes that language under new s. 445.105 (2s). Please let me know if that is inconsistent with your intent or if you have any questions.

Thank you.

Michael P. Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov